

Rule 26(a) provides that a party must provide to the other parties, without awaiting a discovery request, the name and address of each individual likely to have discoverable information that the disclosing party may use to support its claims or defenses unless the use would be “solely for impeachment.” Fed. R. Civ. P. 26(a)(1)(A)(i), (a)(3)(A). “If a party fails to provide information or identify a witness as required by Rule 26(a) or (e), the party is not allowed to use that information or witness to supply evidence on a motion . . . unless the failure was substantially justified or is harmless.” Fed. R. Civ. P. 37(c)(1). The burden is on the potentially sanctioned party to prove harmlessness or justification. *Roberts ex rel. Johnson v. Galen of Va., Inc.*, 325 F.3d 776, 782 (6th Cir. 2003).

Plaintiff’s motion is meritless. The Court has reviewed the declarations and finds they were offered solely to impeach Plaintiff’s testimony that she was exposed to TCE at some of the many different locations in Silver Creek. Thus, Defendants were not required to disclose the declarations. Further, even if Rule 26(a) required disclosure, Plaintiff has not been harmed.

Accordingly, the motion (Doc. 319) is DENIED. Defendants’ request for reimbursement is also denied.

IT IS SO ORDERED.

Date: January 7, 2016

/s/ Greg Kays
GREG KAYS, CHIEF JUDGE
UNITED STATES DISTRICT COURT